

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
Defer LP, Individually, And On Behalf of All Others
Similarly Situated,

08 CV 03449 (LAK)

Plaintiffs,

vs.

Raymond James Financial, Inc., Raymond James &
Associates, Inc., and Raymond James Financial
Services, Inc.,

Defendants.
-----X

**DEFENDANTS' RESPONSE TO THE MOTION
OF LAURIE RUBIN FOR APPOINTMENT AS LEAD
PLAINTIFF AND APPROVAL OF SELECTION OF COUNSEL**

Defendants hereby submit this Response to the Motion of Laurie Rubin for Appointment as Lead Plaintiff and Approval of Selection of Counsel (the "Motion"). Defendants do not take a position with respect to the Motion. However, Defendants reserve their right to contest class certification at the appropriate time on any and all grounds including, but not limited to, the adequacy and typicality of the lead plaintiff. See, e.g., Linn v. Allied Irish Banks, PLC, No. 02 Civ. 1738 (DAB), 02 Civ. 3168 (DAB), 2004 WL 2813133, at *4 (S.D.N.Y. Dec. 8, 2004) ("Any preliminary class certification findings of adequacy and typicality made [on the motion to appoint lead plaintiff] do not preclude any party from contesting the ultimate class certification."); Taft v. Ackermans, No. 02 Civ. 7951 (PKL), 2003 WL 402789, at *3 n.5 (S.D.N.Y. Feb. 20, 2003) (holding that "preliminary determinations of typicality and adequacy are made only for the purposes of appointing lead plaintiff. Any party, including the defendant, can contest class certification on such bases at the appropriate time"); Weltz v. Lee, 199 F.R.D. 129, 133-34 (S.D.N.Y. 2001) (same); Koppel v. 4987 Corp., Nos. 96 Civ. 7570 (RLC), 97 Civ. 1754 (RLC), 1999 WL 608783, at *8 (S.D.N.Y. Aug. 11, 1999) (same).

Respectfully submitted,

Dated: June 18, 2008

/s/ Christian R. Bartholomew

Christian R. Bartholomew
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Telephone: (202) 739-3000
Facsimile: (202) 739-3001

Joaquin Ezcurra
Morgan, Lewis & Bockius LLP
101 Park Avenue
New York, NY 10178
Telephone: (212) 309-6000
Facsimile: (212) 309-6001

Attorneys for Defendants